

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

THE DAILY WIRE, LLC *et al.*,

Plaintiffs

v.

UNITED STATES DEPARTMENT
OF STATE *et al.*,

Defendants.

Civil Action No. 6:23-cv-00609 (JDK)

[PROPOSED] SCHEDULING ORDER

Pursuant to Federal Rule of Civil Procedure 16(b) and the Eastern District of Texas Local Rules (except as modified herein), the Court, having considered the Joint Discovery Plan and Proposed Schedule submitted by the parties, finds that the following schedule should govern the disposition of this case:

May 31, 2024	Parties file joint report of attorney conference
June 10, 2024	Defendants serve written responses and objections to RFPs and Interrogatories served by Plaintiffs on May 9, 2024
June 14, 2024	Parties exchange Rule 26(a)(1) Initial Disclosures and file Proposed Protective Order, Clawback Agreement, and ESI Protocol
No later than June 20, 2024	Parties begin meet and confer over any discovery disputes regarding Defendants' written responses and objections to the RFPs and Interrogatories; Parties will confer and, if needed, provide joint statement to Court on unresolved discovery disputes within one week of completing conferral process
July 12, 2024	Defendants Begin Rolling Production of Documents Responsive to Expedited RFPs. Defendants will produce privilege logs on a rolling basis. The Parties agree that privileged communication between the parties' litigation counsel and their clients occurring after this suit commenced, or amongst agency litigation counsel discussing matters related to this litigation, may be excluded from privilege logs.
September 1, 2024, or 30 days before Defendants complete production of documents responsive to	Answer due

Expedited RFPs, whichever is later	
September 30, 2024	All documents and privilege logs from Expedited RFPs produced
Within 10 days after Defendants complete production of documents responsive to Expedited RFPs	Parties begin meet and confer over any discovery disputes regarding Defendants' expedited document production; Parties will confer and, if needed, provide joint statement to Court on unresolved discovery disputes within one week of completing conferral process
Within 10 days after Defendants complete production of documents responsive to Expedited RFPs	Plaintiffs provide Defendants notice of intent to seek depositions or additional third-party subpoenas for preliminary injunction
Within 17 days after Defendants complete production of documents responsive to Expedited RFPs	Parties begin meet and confer regarding Plaintiffs' notice of intent to seek depositions or additional third-party subpoenas for preliminary injunction; Parties will confer and, if needed, submit separate statements to Court
TBD by Court	If needed, Court decision on depositions, additional third-party subpoenas, or other outstanding preliminary injunction discovery disputes
Within 10 days after agreement or order regarding Plaintiffs' notice seeking expedited depositions and additional subpoenas	Plaintiffs serve additional third-party subpoenas, if needed
Within 30 days after agreement or order regarding Plaintiffs' notice seeking expedited depositions and additional subpoenas	Preliminary injunction depositions completed, if needed
21 days after preliminary injunction depositions	Plaintiffs' supplemental memorandum in support of preliminary injunction due
21 days after Supplemental Memorandum	Defendants' supplemental response due
7 days after Supplemental Response	Plaintiffs' supplemental reply due
Within 30 days after Completion of Supplemental Preliminary Injunction Briefing	Parties confer regarding completion of Rule 26 and Third-Party discovery, including potential need for periodic status conferences, whether the anticipated six months from Preliminary Injunction ruling is adequate for completing discovery, and whether the limits on discovery need to be

	adjusted; Parties will also confer as needed if Plaintiffs propose to amend complaint
45 days after Completion of Supplemental Preliminary Injunction Briefing	Deadline for Plaintiffs to file amended pleadings (assuming Defendants' consent or leave of court is given)
TBD	Hearing on motion for preliminary injunction
TBD	Ruling on motion for preliminary injunction
6 months after Ruling on Preliminary Injunction	Fact discovery completed
14 days after Completion of Fact Discovery	Deadline for Plaintiffs' case-in-chief expert reports and disclosures pursuant to Federal Rules of Civil Procedure 26(a)(2)(B) and 26(a)(2)(C).
75 days after Completion of Fact Discovery	Deadline for Defendants' rebuttal or case-in-chief expert reports and disclosures pursuant to Federal Rules of Civil Procedure 26(a)(2)(B) and 26(a)(2)(C).
105 days after Completion of Fact Discovery	Deadline for Plaintiffs' rebuttal expert report and disclosures, if any.
135 days after Completion of Fact Discovery	Expert discovery completed
No later than 30 days after Completion of Expert Discovery	Deadline for Plaintiffs' motion for summary judgment or other dispositive motions, if any
No later than 60 days after Completion of Expert Discovery	Deadline for Defendants' response to Plaintiffs' dispositive motion(s) and for Defendants' motion for summary judgment or other dispositive motions, if any
No later than 90 days after Completion of Expert Discovery	Deadline for Plaintiffs' summary judgment reply and response to Defendants' dispositive motion(s)
No later than 120 days after Completion of Expert Discovery	Deadline for Defendants' summary judgment reply
TBD	Summary Judgment Hearing or Evidentiary Bench Trial

If any of these dates fall on a weekend or Court holiday, the deadline is modified to be the next Court business day. Also note that all deadlines in this order are for **filing** or **delivery**, **not mailing** dates.

Unless otherwise ordered or specified herein, all limitations and requirements of the Federal Rules of Civil Procedure and the local rules of this Court must be observed.

I. MODIFICATION OF SCHEDULING ORDER

As addressed above, this Order shall control the disposition of this case unless it is modified by the Court upon a showing of **good cause** and by leave of court. Fed. R. Civ. P. 16(b)(4).

II. DISCOVERY DISPUTES

Before filing a motion to compel, a motion to quash, or a motion for protection from discovery, lead counsel for each party must confer in good faith concerning the disputes. If the dispute is not resolved by conferring in good faith, then a party may file an appropriate motion. Any such motion should include a certification by counsel describing the steps taken to comply with this paragraph.

III. RESOURCES

The Eastern District of Texas website (www.txed.uscourts.gov) contains information about Electronic filing, which is mandatory, Local Rules, telephone numbers, general orders, frequently requested cases, the Eastern District fee schedule, and other information.

IV. COMPLIANCE

A party is not excused from the requirements of this scheduling order by virtue of the fact that dispositive motions are pending, the party has not completed its investigation, the party challenges the sufficiency of the opposing party's disclosure, or because another party has failed to comply with this Order or the rules.

Failure to comply with relevant provisions of the Local Rules, the Federal Rules of Civil Procedure, or this Order may result in the exclusion of evidence at trial, the imposition of sanctions by the court, or both. If a fellow member of the Bar makes a just request for cooperation or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent. However, the court is not bound to accept agreements of counsel to extend deadlines imposed by rule or court order. *See* Local Rule AT-3(j).

V. INQUIRIES

Questions relating to this scheduling order or legal matters should be presented in a motion, as appropriate. For questions regarding electronic notice or electronic case files, please see the ECF FAQs on the Eastern District of Texas website.